



# SBA Policy Notice

**TO:** All SBA Employees

**CONTROL NO.:** 5000-940

**SUBJECT:** Changes to 504 Loan Program as a Result of New Legislation

**EFFECTIVE:** 12/21/2004

On December 8, 2004, the FY05 Omnibus Appropriations Act (P.L. 108-447) was signed into law. Included in the Omnibus Appropriations Act is the Small Business Reauthorization and Manufacturing Assistance Act of 2004 ("Reauthorization"), which amended the Small Business Investment Act ("SBI Act") provisions governing the 504 Loan Program. These changes are effective as of the date of enactment (December 8, 2004). Amendments will be made to SBA's regulations and Standard Operating Procedures (SOP) to incorporate these changes as soon as possible.

## **Lending Authority**

For FY 2005, the 504 Loan Program will have \$5 billion in lending authority.

## **504 Loan/Gross Debenture Amount**

SBA provides a 100 percent guaranty of a debenture that is sold as part of a pool of debentures to investors. Once the debenture is sold, a certified development company (CDC) then loans those funds to the borrower as a 504 loan. The following is a chart that sets forth the changes to the maximum 504 loan amount.

<b><u>Maximum 504 Loan Amount</u></b>	<b><u>Loans Approved Through 12/07/04</u></b>	<b><u>Loans Approved on or after 12/08/04</u></b>
Regular 504 loans	\$1.0 million	\$1.5 million
504 loans that meet a public policy goal (described in 501(d)(3) of the SBI Act)	\$1.3 million	\$2.0 million
504 loans to "small manufacturers" (new category, see 502(2)(B) of SBI Act as amended by Reauthorization)	N/A – This category did not exist prior to the Reauthorization	\$4.0 million

As a reminder, the dollar amount of a 504 loan request from a small business is combined with all outstanding 504 and 7(a) guaranty loan balances of that same business (including all affiliates) when determining the maximum SBA guaranteed amount that one borrower is permitted to have approved and outstanding. (SOP 50 10, Subpart A, Chapter 4, para. 2, page 96-1)

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## **504 Project Job Requirements**

The 504 Loan Program was principally designed to promote job creation. A CDC must demonstrate that each 504 project meets at least one of the following three economic development objectives: 1) creation of a specific number of jobs within two years of the completion of the project or the preservation or retention of jobs attributable to the project; 2) improvement of the economy of the locality; or 3) achievement of one or more of the public policy goals specifically listed in Section 501(d)(3) of the SBIAct. If eligibility is based on the criteria in items 2) or 3) above, the overall loan portfolio of the CDC must also satisfy applicable job creation or retention criteria.

Last year, SBA changed the job creation and retention criteria regulations (13 CFR §§120.861 and 120.829). The Reauthorization supercedes these regulations by amending Section 501(e) of the SBIAct to set forth specific job creation and retention requirements. The following chart sets forth the changes:

<b><u>Job Creation or Retention Requirement</u></b>	<b><u>As of 11/6/03 Federal Register Notice</u></b>	<b><u>For Loans Approved Beginning 12/08/04</u></b>
<b><u>Calculations Based on Individual Loans</u></b>		
Regular 504 Project	1 job for every \$50,000 guaranteed by SBA	Same except for a new provision for a Small Manufacturer (see below)
504 Project for a Small Manufacturer	Category did not exist	1 job for every \$100,000 guaranteed by SBA.
<b><u>Calculations Based on Total Loan Portfolio</u></b>		
CDC's total 504 Loan Portfolio	1 job for every \$50,000 in CDC's outstanding 504 loan portfolio	1 job for every \$50,000 in CDC's outstanding 504 loan portfolio, <u>excluding</u> 504 loans to Small Manufacturers and in Special Geographic Areas. *
Portion of CDC's 504 Loan Portfolio comprised of 504 projects located in Special Geographic Areas *	1 job for every \$65,000 in CDC's outstanding 504 loan portfolio **	1 job for every \$75,000 in CDC's outstanding 504 loan portfolio, excluding 504 loans to Small Manufacturers.
Portion of CDC's 504 Loan Portfolio comprised of 504 projects to Small Manufacturers	Category did not exist	Loans to Small Manufacturers are excluded from the job requirement applicable to CDC's portfolio

\* Special Geographic Areas means Alaska, Hawaii, State-designated enterprise zones, empowerment zones, enterprise communities, and labor surplus areas.

\*\*If a CDC's total 504 portfolio exceeds 1 job for every \$50,000 guaranteed by SBA, the CDC may wish to separate out those loans to 504 projects located in Special Geographic Areas. The

CDC's portfolio for these loans is permitted to average 1 job for every \$75,000 guaranteed by SBA.

### **504 Loans to Small Manufacturers**

The Reauthorization permits 504 loans for Small Manufacturers for an amount up to \$4 million. Small Manufacturer is defined as a small business concern that has:

- 1) its primary business classified in sector 31, 32, or 33 of the North American Industrial Classification System (NAICS); and
- 2) all of its production facilities located in the United States.

In order to qualify for a \$4 million 504 loan, therefore, the Small Manufacturer must 1) meet the definition of a Small Manufacturer described above, and 2) either (i) create or retain at least 1 job per \$100,000 guaranteed by SBA (Section 501 (d)(1) of the SBI Act), or (ii) improve the economy of the locality or achieve one or more public policy goals (sections 501(d)(2) or (3) of the SBI Act).

### **Appropriations**

The 504 Loan Program continues to be a zero subsidy loan program financed through fee income from borrowers, lenders and CDCs. Therefore, no appropriation is needed to subsidize the loans. The on-going guaranty fee SBA charges is set each year depending on the subsidy model's estimate of the default rate and recovery rate for loans approved in that year. The on-going guaranty fee for loans approved in FY05 is 0.288.% (SBA Policy Notice No. 5000-931).

### **504 Applications Approved but not Funded**

As a result of the Reauthorization's increase in the maximum 504 loan amount, the CDC may wish to increase a loan approved prior to the date of this Notice. CDCs may do so only if: 1) the loan is not yet disbursed; and 2) it was approved on or after December 8, 2004. Because the limits in effect at the time the loan was approved govern the loan, any loan approved prior to December 8, 2004 must be cancelled and resubmitted, with additional supporting project information, in order to take advantage of these legislative changes.

### **Questions**

SBA district offices must notify CDCs of these changes. SBA district offices or centers with questions on this notice may direct their questions to A. B. McConnell Jr. at (202) 205-7238. CDCs and lenders are directed to forward questions to their local SBA field office.

Hector V. Barreto  
Administrator

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